IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5393 of 2005

Between:

Palla Chandra Sekhar, S/o. Late P. Gangaiah,
R/o. 1/1189, Yerramukkapalli, Kadapa Town and District.

..... PETITIONER

AND

Government of India, Ministry of External Affairs,
Rep by Regional Pass Port Officer, Hyderabad (A.P.)

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus by declaring the inaction of the Respondent in not considering the change of date of birth on basis of the notary affidavit and other educational certificates as arbitrary, illegal against the principles of natural justice and violative of fundamental rights of Constitution of India and consequently direct the Respondent not insist to take attestation from J.F.C.M. for change of date of birth.

Counsel for the Petitioner:SRI.V.RAVI BABU

Counsel for the Respondent No.: MR.A.RAJASHEKAR REDDY (ASSISTANT SG) and Mr.P.Uday Bhaskar, Additional SC for Central Government.

The Court at the admission stage made the following :

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O R D E R:

Heard the learned counsel for the petitioner and the learned Additional Standing Counsel, Mr.P.Uday Bhaskar, for Central Government appearing for the respondent-Regional Passport Officer.

It is the case of the petitioner that his actual date of birth is 01-12-1969, but in the passport issued to him by the
respondent-Passport Authority on 02-04-2004, his date of birth is wrongly mentioned as 10-06-1975. When he made a representation to the respondent-Passport Authority to alter his date of birth in the Passport, the respondent by telegram dated 23.12.2004 impugned the petitioner that he should submitted a decree from civil Court. Aggrieved by the said action of the respondent, this writ petition is filed.

It is required to be noticed that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

> " (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
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> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As on today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the respondent ought to have considered the application of the petitioner for fresh passport in the light of the above instructions in Circular dated 18-04-2001.

Therefore, the Writ Petition is disposed of with a direction to the respondent to consider the request of the petitioner afresh for correction of date of birth and pass appropriate orders in terms of the circular dated 18.12.2001. The petitioner is granted liberty to produce the relevant material/documents in support of his correct date of birth within four weeks from today before the respondent in which event the respondent shall receive the same and after verifying the genuineness or otherwise thereof in the light of the aforementioned circular pass appropriate orders within four weeks thereafter.

With the above directions, the writ petition is disposed of. No costs.

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(G.ROHINI, J)

Dated 17th March, 2005

Mrb

To

1. The Regional Pass Port Officer, Government of India,

Ministry of External Affairs,

Hyderabad (A.P.).

2. Two CD copies.